

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

STATE OF OHIO

Case No. C-08-cv-476

Plaintiff,

-v-

Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

LARRY E. EALY

Defendant.

**ENTRY AND ORDER ADOPTING THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATIONS (Doc. #9) REGARDING EALY'S
MOTION FOR LEAVE TO PROCEED ON APPEAL *IN FORMA
PAUPERIS* IN ITS ENTIRETY AND DENYING EALY'S MOTION FOR
LEAVE TO PROCEED ON APPEAL *IN FORMA PAUPERIS***

This matter comes before the Court pursuant to Magistrate Judge Michael R. Merz's Report and Recommendations regarding Defendant Larry E. Ealy's ("Ealy's") Motion for Leave To Proceed On Appeal *in forma pauperis*. The time has run and neither party has filed Objections to this Report and Recommendations.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Magistrate Judge's Report and Recommendations is adopted in its entirety.

Ealy's Motion for Leave To Proceed On Appeal *In Forma Pauperis* establishes that Ealy is indigent but it does not state any issues which Ealy intends to raise on appeal. Further, Ealy's Appeal would be frivolous. Therefore, Ealy's Motion for Leave To Proceed On Appeal *In Forma Pauperis* is OVERRULED. The Clerk is also hereby ordered to serve a copy of this Order on Defendant Larry E. Ealy at his last known address.

DONE and **ORDERED** in Dayton, Ohio, this Ninth day of March, 2009.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Larry E. Ealy